

HOUSE BILL 771

C5, I3
HB 596/11 – ECM

2lr0395

By: **Delegate Davis**

Introduced and read first time: February 9, 2012

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Electric Companies and Gas Companies – Customer Accounts and**
3 **Information**

4 FOR the purpose of requiring an electric company, a gas company, or an electric and
5 gas company, on a certain request by a certain competitive supplier of electricity
6 or gas, to provide certain information related to certain customer accounts to
7 the supplier, subject to certain restrictions; requiring the distribution utility to
8 provide the information in a certain form and to update it periodically;
9 prohibiting a distribution utility from providing certain information without the
10 prior authorization of a certain customer; providing the method by which a
11 distribution utility must obtain the customer's authorization, including
12 requiring certain notice to be provided containing certain information; requiring
13 the notice to be provided to certain customers at certain times; establishing
14 when a customer is deemed to have given certain authorization; authorizing a
15 customer to withdraw authorization in a certain manner; requiring a
16 distribution utility to ensure that certain information is not shared under
17 certain circumstances; requiring a distribution utility to notify a certain
18 competitive supplier that a certain customer has withdrawn certain
19 authorization; requiring a competitive supplier to redact certain information
20 from its records under certain circumstances and refrain from contacting a
21 certain customer in a certain manner under certain circumstances; requiring
22 the Public Service Commission to allow a distribution utility to recover certain
23 costs directly from a competitive supplier; providing that a competitive supplier
24 may use certain information only for a certain purpose; prohibiting a
25 competitive supplier from selling or providing certain information to any other
26 person, with a certain exception; authorizing a competitive supplier to provide
27 certain information to an authorized agent for a certain purpose; providing that
28 the authorized agent is subject to the same restrictions on the use, sale, or
29 provision of the information as the competitive supplier; requiring a certain
30 competitive supplier to include certain information in certain marketing
31 materials sent to certain customers; prohibiting a competitive supplier from

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 transferring a certain customer account without certain authorization;
2 requiring a competitive supplier to retain certain information for a certain
3 purpose; requiring the Commission to adopt certain orders or regulations in
4 consultation with the Office of the Attorney General; providing that a violation
5 of this Act is an unfair or deceptive trade practice that is subject to certain
6 penalty and enforcement provisions; authorizing the coordination of certain
7 enforcement efforts; providing for the application of this Act to certain gas
8 suppliers under certain provisions of law; providing for the enforcement of this
9 Act with respect to certain gas suppliers and gas customers; providing that this
10 Act does not apply to an electric cooperative or a gas cooperative; defining
11 certain terms; providing for the effective date of certain provisions of this Act;
12 providing for the termination of certain provisions of this Act; and generally
13 relating to electricity, gas supply, and customer account information.

14 BY repealing and reenacting, with amendments,
15 Article – Commercial Law
16 Section 13–301(14)(xxvii)
17 Annotated Code of Maryland
18 (2005 Replacement Volume and 2011 Supplement)

19 BY adding to
20 Article – Commercial Law
21 Section 13–301(14)(xxix)
22 Annotated Code of Maryland
23 (2005 Replacement Volume and 2011 Supplement)

24 BY adding to
25 Article – Public Utilities
26 Section 7–510.1 and 7–604(c)
27 Annotated Code of Maryland
28 (2010 Replacement Volume and 2011 Supplement)

29 BY repealing and reenacting, with amendments,
30 Article – Commercial Law
31 Section 13–301(14)(xxvi)
32 Annotated Code of Maryland
33 (2005 Replacement Volume and 2011 Supplement)
34 (As enacted by Chapters 280 and 281 of the Acts of the General Assembly of
35 2011)

36 BY adding to
37 Article – Commercial Law
38 Section 13–301(14)(xxviii)
39 Annotated Code of Maryland
40 (2005 Replacement Volume and 2011 Supplement)
41 (As enacted by Chapters 280 and 281 of the Acts of the General Assembly of
42 2011)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – Commercial Law**

4 13–301.

5 Unfair or deceptive trade practices include any:

6 (14) Violation of a provision of:

7 (xxvii)Section 7–405(e)(2)(ii) of the Health Occupations Article;

8 [or]

9 (XXIX) SECTION 7–510.1 OF THE PUBLIC UTILITIES
10 ARTICLE; OR

11 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
12 read as follows:

13 **Article – Public Utilities**

14 **7–510.1.**

15 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
16 MEANINGS INDICATED.

17 (2) “COMPETITIVE SUPPLIER” MEANS:

18 (I) AN ELECTRICITY SUPPLIER LICENSED UNDER THIS
19 SUBTITLE; OR

20 (II) A GAS SUPPLIER LICENSED UNDER SUBTITLE 6 OF THIS
21 TITLE.

22 (3) “DISTRIBUTION UTILITY” MEANS AN ELECTRIC COMPANY, A
23 GAS COMPANY, OR AN ELECTRIC AND GAS COMPANY.

24 (B) THIS SECTION DOES NOT APPLY TO AN ELECTRIC COOPERATIVE OR
25 A GAS COOPERATIVE.

26 (C) (1) SUBJECT TO SUBSECTION (D) OF THIS SECTION, ON THE
27 WRITTEN REQUEST OF A COMPETITIVE SUPPLIER LICENSED BY THE STATE, A
28 DISTRIBUTION UTILITY SHALL PROVIDE THE COMPETITIVE SUPPLIER WITH THE

1 FOLLOWING CUSTOMER ACCOUNT INFORMATION FOR EACH RESIDENTIAL
2 CUSTOMER AND SMALL COMMERCIAL CUSTOMER LOCATED IN THE SERVICE
3 TERRITORY OF THE DISTRIBUTION UTILITY:

4 (I) THE ACCOUNT NAME;

5 (II) THE BILLING ADDRESS;

6 (III) THE SERVICE ADDRESS;

7 (IV) THE UTILITY RATE CLASS;

8 (V) THE STANDARD OFFER SERVICE TYPE, IF ANY;

9 (VI) THE LOAD PROFILE;

10 (VII) THE POWER USAGE FOR THE PRECEDING 12-MONTH
11 PERIOD FOR EACH TYPE OF POWER; AND

12 (VIII) WHETHER THE TYPE OF POWER SUPPLIED TO THE
13 CUSTOMER IS:

14 1. GAS;

15 2. ELECTRICITY; OR

16 3. GAS AND ELECTRICITY.

17 (2) A DISTRIBUTION UTILITY SHALL PROVIDE THE INFORMATION
18 REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION IN ELECTRONIC FORM
19 AND UPDATE THE INFORMATION AT LEAST FOUR TIMES EACH YEAR.

20 (D) (1) A DISTRIBUTION UTILITY MAY NOT PROVIDE CUSTOMER
21 ACCOUNT INFORMATION UNDER SUBSECTION (C) OF THIS SECTION WITHOUT
22 THE PRIOR AUTHORIZATION OF THE CUSTOMER NAMED ON THE ACCOUNT.

23 (2) (I) TO OBTAIN THE AUTHORIZATION OF A CUSTOMER, A
24 DISTRIBUTION UTILITY SHALL SEND THE CUSTOMER NAMED ON THE ACCOUNT
25 WRITTEN NOTICE OF:

26 1. THE TYPE OF ACCOUNT INFORMATION THAT
27 WOULD BE PROVIDED TO A COMPETITIVE SUPPLIER;

28 2. THE RIGHT OF THE CUSTOMER TO:

1 **A. REFUSE TO AUTHORIZE THE DISTRIBUTION**
2 **UTILITY TO SHARE INFORMATION REGARDING THE CUSTOMER’S ACCOUNT; OR**

3 **B. WITHDRAW AN EARLIER AUTHORIZATION; AND**

4 **3. THE MANNER IN WHICH THE CUSTOMER IS**
5 **REQUIRED TO INDICATE A REFUSAL OF AUTHORIZATION OR A WITHDRAWAL OF**
6 **A PREVIOUS AUTHORIZATION.**

7 **(II) THE NOTICE REQUIRED UNDER SUBPARAGRAPH (I) OF**
8 **THIS PARAGRAPH SHALL BE PROVIDED:**

9 **1. AS PART OF THE WRITTEN MATERIALS SUPPLIED**
10 **TO NEW CUSTOMERS WHEN THE CUSTOMER APPLIES FOR SERVICE; AND**

11 **2. AS A BILL INSERT TO EXISTING CUSTOMERS PRIOR**
12 **TO THE FIRST TIME THAT THE DISTRIBUTION UTILITY PROVIDES INFORMATION**
13 **UNDER THIS SECTION.**

14 **(3) (I) A CUSTOMER IS DEEMED TO HAVE AUTHORIZED A**
15 **DISTRIBUTION UTILITY TO PROVIDE INFORMATION ABOUT THE CUSTOMER’S**
16 **ACCOUNT UNDER THIS SECTION IF, WITHIN 45 DAYS AFTER NOTICE IS GIVEN**
17 **UNDER THIS SUBSECTION, THE CUSTOMER DOES NOT INFORM THE**
18 **DISTRIBUTION UTILITY OF THE CUSTOMER’S REFUSAL IN THE MANNER**
19 **PRESCRIBED BY THE NOTICE.**

20 **(II) 1. A CUSTOMER MAY WITHDRAW AUTHORIZATION AT**
21 **ANY TIME BY NOTIFYING THE DISTRIBUTION UTILITY IN THE MANNER**
22 **PRESCRIBED BY THE NOTICE.**

23 **2. IF A CUSTOMER WITHDRAWS AUTHORIZATION,**
24 **THE DISTRIBUTION UTILITY SHALL:**

25 **A. ENSURE THAT THE CUSTOMER’S ACCOUNT**
26 **INFORMATION IS NOT PROVIDED IN THE NEXT UPDATE; AND**

27 **B. NOTIFY THE COMPETITIVE SUPPLIER THAT THE**
28 **CUSTOMER HAS WITHDRAWN AUTHORIZATION.**

29 **3. ON RECEIVING NOTICE FROM A DISTRIBUTION**
30 **UTILITY THAT A CUSTOMER HAS WITHDRAWN AUTHORIZATION UNDER THIS**
31 **PARAGRAPH, THE COMPETITIVE SUPPLIER SHALL:**

1 **A. REDACT THE CUSTOMER'S INFORMATION FROM**
2 **ITS RECORDS; AND**

3 **B. REFRAIN FROM CONTACTING THE CUSTOMER**
4 **DIRECTLY BY MAIL OR TELEPHONE TO MARKET SERVICES TO THE CUSTOMER.**

5 **4. ONCE A COMMERCIAL CUSTOMER HAS REFUSED**
6 **AUTHORIZATION, OR HAS WITHDRAWN AUTHORIZATION UNDER THIS**
7 **PARAGRAPH, THE DISTRIBUTION UTILITY MAY NOT ATTEMPT TO OBTAIN**
8 **AUTHORIZATION FROM THE COMMERCIAL CUSTOMER UNLESS THE**
9 **COMMERCIAL CUSTOMER AFFIRMATIVELY REQUESTS IT.**

10 **(4) A DISTRIBUTION UTILITY MAY NOT INCLUDE IN THE**
11 **INFORMATION PROVIDED UNDER SUBSECTION (C) OF THIS SECTION CUSTOMER**
12 **ACCOUNT INFORMATION OF A COMMERCIAL CUSTOMER THAT IS RECEIVING**
13 **ELECTRICITY SUPPLY OR GAS SUPPLY FROM A COMPETITIVE SUPPLIER.**

14 **(E) THE COMMISSION SHALL ALLOW THE DISTRIBUTION UTILITY TO**
15 **RECOVER THE PRUDENTLY INCURRED COSTS, AS THE COMMISSION**
16 **DETERMINES, OF PROVIDING THE INFORMATION UNDER SUBSECTION (C) OF**
17 **THIS SECTION DIRECTLY FROM THE COMPETITIVE SUPPLIER THAT REQUESTED**
18 **THE INFORMATION.**

19 **(F) (1) A COMPETITIVE SUPPLIER MAY USE THE INFORMATION**
20 **OBTAINED UNDER THIS SECTION ONLY TO MARKET SERVICES RELATED TO**
21 **ELECTRICITY AND GAS SUPPLY.**

22 **(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
23 **PARAGRAPH, A COMPETITIVE SUPPLIER MAY NOT SELL OR PROVIDE ANY**
24 **INFORMATION OBTAINED UNDER THIS SECTION TO ANY OTHER PERSON,**
25 **INCLUDING AN AFFILIATE OF THE COMPETITIVE SUPPLIER.**

26 **(II) A COMPETITIVE SUPPLIER MAY PROVIDE INFORMATION**
27 **OBTAINED UNDER THIS SECTION TO AN AUTHORIZED AGENT TO DEVELOP OR**
28 **IMPLEMENT A MARKETING CAMPAIGN IN ACCORDANCE WITH PARAGRAPH (1)**
29 **OF THIS SUBSECTION.**

30 **(III) AN AUTHORIZED AGENT OF A COMPETITIVE SUPPLIER**
31 **THAT HAS OBTAINED INFORMATION UNDER SUBPARAGRAPH (II) OF THIS**
32 **PARAGRAPH IS SUBJECT TO THE SAME RESTRICTIONS ON THE USE, SALE, OR**
33 **PROVISION OF THE INFORMATION TO WHICH THE COMPETITIVE SUPPLIER IS**
34 **SUBJECT UNDER THIS SUBSECTION.**

1 **(G) A COMPETITIVE SUPPLIER SHALL INCLUDE IN ANY MARKETING**
2 **MATERIALS SENT TO A RESIDENTIAL CUSTOMER OR SMALL COMMERCIAL**
3 **CUSTOMER INFORMATION ON HOW A CUSTOMER MAY CONTACT THE**
4 **CUSTOMER'S DISTRIBUTION UTILITY TO WITHDRAW AUTHORIZATION FOR THE**
5 **DISTRIBUTION UTILITY TO PROVIDE TO COMPETITIVE SUPPLIERS INFORMATION**
6 **ABOUT THE CUSTOMER'S ACCOUNT.**

7 **(H) (1) WITHOUT OBTAINING THE PRIOR AUTHORIZATION OF THE**
8 **CUSTOMER, A COMPETITIVE SUPPLIER MAY NOT TRANSFER TO ITS OWN SUPPLY**
9 **A CUSTOMER OF ANOTHER COMPETITIVE SUPPLIER OR THE DEFAULT**
10 **SUPPLIER.**

11 **(2) A COMPETITIVE SUPPLIER SHALL MAINTAIN COPIES OF**
12 **EVIDENCE OF A CUSTOMER'S REQUEST TO TRANSFER TO SUPPLY PROVIDED BY**
13 **THAT COMPETITIVE SUPPLIER FOR THE PERIOD AND IN ACCORDANCE WITH**
14 **REQUIREMENTS AND PROCEDURES THAT THE COMMISSION ADOPTS UNDER**
15 **THIS SUBSECTION.**

16 **(3) THE COMMISSION MAY INSPECT THE RECORDS OF A**
17 **COMPETITIVE SUPPLIER TO DETERMINE COMPLIANCE WITH THIS SUBSECTION.**

18 **(4) IN CONSULTATION WITH THE OFFICE OF THE ATTORNEY**
19 **GENERAL, THE COMMISSION SHALL ADOPT ORDERS OR REGULATIONS TO**
20 **IMPLEMENT THIS SUBSECTION.**

21 **(I) (1) A VIOLATION OF THIS SECTION IS AN UNFAIR OR DECEPTIVE**
22 **TRADE PRACTICE UNDER TITLE 13 OF THE COMMERCIAL LAW ARTICLE.**

23 **(2) IN ADDITION TO BEING SUBJECT TO THE PENALTY AND**
24 **ENFORCEMENT PROVISIONS OF TITLE 13 OF THE COMMERCIAL LAW ARTICLE,**
25 **A COMPETITIVE SUPPLIER WHO VIOLATES THIS SECTION IS SUBJECT TO**
26 **PENALTIES AND ENFORCEMENT UNDER THIS DIVISION AND REGULATIONS**
27 **ADOPTED UNDER THIS DIVISION.**

28 **(3) THE COMMISSION MAY COORDINATE ENFORCEMENT**
29 **EFFORTS UNDER THIS SECTION WITH THE OFFICE OF THE ATTORNEY**
30 **GENERAL.**

31 7-604.

32 **(C) (1) SECTION 7-510.1 OF THIS TITLE GOVERNS:**

